

2 MIDWAY MFG. CO., a corporation,

3 Plaintiff,

4 vs.

5 ARTIC INTERNATIONAL, INC., a  
6 corporation,

7 Defendant

80 c 5863

9 Friday, December 19, 1980.

10 10:20 a.m.

11 Parties met pursuant to recess.

12 PRESENT:

13 MR. DONALD L. WELSH  
14 MR. ERIC C. COHEN

15 on behalf of plaintiff;

16 MR. RICHARD KINNEY

17 on behalf of defendant;

18 MR. YEE S. LIAW, Interpreter

19 - - - - -

20 (The deposition of SHIN-MING HUANG

21 was resumed at

22 Chicago, Illinois as follows:)

23 Plaintiff's  
24 Exhibit "D"

1 Q That was not the question.

2 A All right.

3 Q What did the customer tell you about the  
4 game?

5 A I think that is our --

6 (Conference between the witness  
7 and Mr. Kinney.)

8 BY THE WITNESS:

9 A (Continuing) The details I cannot remember  
10 right now.

1 MR. WELSH: I think the record should show  
2 that just before he gave the answer, "I cannot remem-  
3 ber," that, without asking for a conference with  
4 counsel, counsel conferred with the witness, after  
5 which the witness replied, "I don't remember."

6 THE WITNESS: Really, that is the real con-  
7 versation is over one year, so I cannot. That is the  
8 real situation. But I know he mentioned the Galaxian.

9 BY MR. WELSH:

10 Q When was the first time you saw a Galaxian  
11 video game?

12 A In the show of Chicago, Conrad Hilton,  
13 last year.

14 Q 1979?

15 A 1979.

16 Q The AMOA Show?

17 A Right.

18 Q And did you see it at the Midway booth?

19 A Yes.

20 Q And did you play the game at the booth?

21 A No. Just looking.

22 Q Did you watch someone else play the game?

23 A Yes.

1 after the 1979 AMOA Show in Chicago?

2 A You mean not have a booth, just attend?

3 Q Yes.

4 A Just visit?

5 Q Yes.

6 A Yes.

7 Q What other shows did you attend?

8 A In Japan this year, the show in Japan, in  
9 Tokyo. Tokyo show.

10 And of course this year in New Orleans.

11 Q When was the New Orleans show?

12 A Early this year. I cannot remember which  
13 month.

14 Q January or February 1980?

15 A Actually before March.

16 Q Before March. Did you see a Galaxian game  
17 at that show?

18 A I couldn't remember. I cannot remember.

19 Q At the Tokyo show this year did you visit  
20 the Namco booth?

21 A Maybe just once. Not -- because so  
22 crowded, I didn't play any game over there.

23 Q Did you see any game?

24 A Of course, I see. I saw it.

1 Q What game did you see?

2 A I saw Puckman, Rally-X and Tank, Tank some-  
3 thing. And one like a balloon.

4 Q A game with a balloon, or --

5 A Yes.

6 Q Those games were all at the Namco booth?

7 A You mean right now you mentioned the game  
8 I saw at Namco booth?

9 Q Yes.

10 A Or other, including other booths?

11 Q Well, where did you see the Puckman game?

12 A With the ICs. I saw it before the show,  
13 on the street.

14 Q Was it a Namco game that you saw?

15 A I don't know, but just a cocktail type.  
16 Some Namco, but some don't.

17 Q So you saw the Puckman in Japan before the  
18 show?

19 A Yes, on the street.

20 Q Did you also see it at the show?

21 A Yes, because I think that is not. Maybe I  
22 didn't see the Puckman, the machine, but I know it  
23 is over there. I didn't touch it.

24 Q But you saw it?

1 A Yes.

2 Q Did you see somebody playing it?

3 A You mean -- I saw the crowd, the people  
4 gathered there, and I don't spend much time on that  
5 booth, just pass by.

6 Q Was there a big crowd in front of the  
7 Puckman game?

8 A Maybe like that, yes. That's it. Not --  
9 because every machine are crowded, everywhere crowded,  
10 not just that game.

11 Q Do you know whether Midway Manufacturing  
12 Co, had a booth at the Japanese show this year?

13 A I don't know.

Q Is it correct that you did not see a Midway booth at the show?

A Sure. I didn't see it.

Q At the AMOA show this year Artic International was an exhibitor, is that correct?

A This year, yes.

Q I show you what appears to be a program, 1980 program and directory of exhibitors for the International Exposition of Games and Music at the Conrad Hilton Hotel, Chicago, Illinois, Friday-Saturday-Sunday, October 31 to November 1 and 2.

Do you recognize that as a copy of an exhibitor's book that was handed out at the show?

A Right.

MR. WELSH: I would like to ask the reporter to mark as Exhibit 26 a copy of the front cover page, page 38, and page 91 of that booklet.

(Plaintiff's Huang Deposition Exhibit 26 was marked for identification, 12/19/80, GB.)

MR. KINNEY: While the witness examines that, I note that you are going to make a production tomorrow of some answers to interrogatories for us, and I just want to state for the record that I will

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2  
3  
4  
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7  
be in my office tomorrow to pick it up, or I can  
pick it up here, or if you want, I can have it  
available at the end of the day, under the order  
of Court. I just want to make sure that we are  
not going to mail your production document on a  
Saturday with a pending motion to be filed on  
Tuesday.

8  
9  
MR. WELSH: Under the rules, where a due date  
falls on a week-end --

10  
11  
12  
13  
MR. KINNEY: It isn't a due date falling on  
a week-end, as you were specifically ordered to  
produce it on the 20th, according to the amended  
order.

14  
15  
Are you saying you are not going to  
produce it tomorrow?

16  
MR. WELSH: I don't believe I said that.

17  
18  
MR. KINNEY: Are you going to answer me, my  
inquiry?

19  
20  
MR. WELSH: I am just cogitating the mechanics  
of it.

21  
22  
23  
24  
When we have it ready, we will call your  
office. If you are there tomorrow and wish to come  
over and pick it up, fine. If you are not, then  
we will mail it. I don't know what time tomorrow



Huang - direct

MR. KINNEY: Not all the speculations.

MR. WELSH: I think we will let the witness answer the questions.

MR. KINNEY: I have no objection to his answering, but he was speculating.

By the way, Mr. Welsh, are you waiving any privilege with regard to this document, and to these discussions? It's a very strange situation where the attorney is --

MR. WELSH: If any privilege exists, I waive it, yes.

MR. KINNEY: And related to the --

MR. WELSH: No, just with respect to this document.

MR. KINNEY: No, I mean to the whole document, of settlement.

MR. WELSH: Any communications that occurred between me and my client, I certainly don't waive the privilege to that.

MR. KINNEY: I am certainly not asking --

MR. WELSH: But I am not sure of what you are referring to otherwise.

MR. KINNEY: Well, it seems, this document seems

1 to be talking about something about settlement, so  
2 I was just wondering if -- there are some general  
3 settlement discussions, and if you want some general  
4 settlement discussions admitted in evidence. But  
5 since you are bringing it up, I assume you are  
6 opening the door.

7 MR. WELSH: I don't know what you are talking  
8 about.

9 MR. KINNEY: Well, all right. I just assumed  
10 that.

11 (Conference between Mr. Welsh and  
12 Mr. Cohen.)

13 BY MR. WELSH:

14 Q Did you indicate in your discussion with  
15 Mr. Katz or me at the AMOA show that you were willing  
16 to stop selling Galaxian boards and would be willing to  
17 settle the lawsuit?

18

19

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1  
2 MR. KINNEY: Objection to questions related  
3 to settlement, which I believe --

4 Can we just agree that this whole line,  
5 I am objecting to the whole line of questioning in  
6 that area?

7 MR. WELSH: Surely.

8 MR. KINNEY: All right. Then you can go  
9 ahead and answer it.

10 BY THE WITNESS:

11 A In my opinion, at that time, that if the--  
12 of course, I don't like to fight with other companies.  
13 I like peace. I don't like war. So -- and we are  
14 doing business, so if we can have a good settlement,  
15 that which one we -- that is, what we acceptable,  
16 was acceptable to us, then we want to settle this  
17 case. And after that, we were -- if after settled,  
18 we might stop to sell those things.

19 THE INTERPRETER: You mean you will. You  
20 don't mean you might. You mean you will? If the  
21 case is settled, you will stop.

22 "May" means "may or may not."

23 THE WITNESS: That depend on the settlement,  
24 I think.

1 BY MR. WELSH:

2 Q But in the discussion with Mr. Katz and me  
3 at the show, you did say that you would be willing to  
4 settle?

5 A Okay. Yes. The situation is you told me  
6 it's very easy for you, you just call your lawyer.

7 MR. KINNEY: When you say "you," you mean --

8 For the record, say Mr. Welsh.

9 BY THE WITNESS:

10 A (Continuing) Mr. Welsh told me, "We don't  
11 like to make this case. You can settle with us. Now,  
12 it's very easy if you call your lawyer to come to  
13 us."

14 I think that conversation is -- ac-  
15 tually the conversation is very short, and like that.

16 BY MR. WELSH:

17 Q Were you informed that we did have discus-  
18 sion with your lawyer after that?

19 MR. KINNEY: I'm going to object to that  
20 question, because -- I am going to object to any ques-  
21 tion regarding conferring between my principals of  
22 my client and any attorney who is representing them.  
23 If you exclude any information outside of communica-  
24 tion between attorney and client, then --

1 MR. WELSH: Well, I am not asking for the  
2 communication. I am asking if he was informed.

3 MR. KINNEY: I am going to object.

4 Well, okay, if you want to tell us  
5 excluding attorney-client communications --

6 MR. WELSH: That's fine. I agree.

7 MR. KINNEY: All right.

8 Well, perhaps read back the question.

9 (Question read by the reporter.)

10 MR. KINNEY: Now, I read that question as  
11 modified by saying "informed by someone other than  
12 your lawyer."

13 MR. WELSH: Fine.

14 THE WITNESS: (To the interpreter) Please.

15 (Conference between the witness  
16 and the interpreter.)

17 MR. WELSH: I will withdraw the question.

18 It's not worth --

19 MR. KINNEY: All right, fine.

20 BY MR. WELSH:

21 Q There was produced today Exhibit 29.

22 How did that -- was that produced from the files of  
23 your company?

24 (Conference between the witness

and the interpreter.)

1  
2 MR. KINNEY: No. Actually that was produced  
3 from my file. If you recall, you asked for letters  
4 from -- yesterday you asked for letters from your law  
5 firm. I said I did not produce anything that your  
6 law firm had produced during the midst of the deposi-  
7 tion.

8 You said you wanted those letters.  
9 I told my secretary to go and Xerox off, go through  
10 the file and Xerox off the letters from your law  
11 firm.

12 MR. WELSH: Okay.

13 MR. KINNEY: So that came out of my file,  
14 and I think it may have been mistakenly produced  
15 BY MR. WELSH:

16 Q Had you seen a copy of that letter before  
17 yesterday?

18 A This letter (indicating)?

19 Q Yes, a copy of it before yesterday.

20 A You mean the copy or the original?

21 THE INTERPRETER: Any.

22 BY MR. WELSH:

23 Q Either.

24

1 BY THE WITNESS:

2 A Yes, I saw this in Mr. Trombadore's office.

3 MR. KINNEY: I am going to object to any  
4 further questions regarding this matter, regarding  
5 attorney-client privilege.

6 BY MR. WELSH:

7 Q Did you also see the settlement agreement  
8 and consent judgment referred to in the letter?

9 A You mean your settlement?

10 Q The papers, the settlement papers.

11 MR. KINNEY: I am going to object to the  
12 question.

13 BY THE WITNESS:

14 A I didn't see that. I don't see that. But--

15 MR. KINNEY: Wait a minute. Let me object  
16 to the question.

17 THE WITNESS: Okay.

18 MR. KINNEY: Object to the question as  
19 relating to possible communications between Mr. --

20 THE INTERPRETER: Trombadore.

21 THE WITNESS: Trombadore.

22 MR. KINNEY: -- Mr. Trombadore, who was  
23 then, or is the Artic International general attorney  
24 in New Jersey, and I instruct the witness not to